

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 10-20123
Hon. Victoria A. Roberts

v.

(D-1) DAVID BRIAN STONE,
a.k.a. "RD", a.k.a. "Joe Stonewall,"
a.k.a. "Captain Hutaree,"

Defendant

MOTION FOR REVOCATION OF DETENTION ORDER

Now comes Defendant, DAVID BRIAN STONE, through his attorney, WILLIAM W. SWOR, and moves this Honorable Court to enter an order granting pretrial release pending resolution of the charges in this criminal case. In support of his motion Defendant states:

1. On or about March 27, 2010, Defendant was arrested in the Eastern District of Michigan.
2. On March 31, 2010 and April 1, 2010 a detention hearing was held, on April 2, 2010 Defendant was ordered detained by Magistrate Donald Scheer, of the United States District Court for the Eastern District of Michigan. Magistrate Judge Scheer held that Defendant had not successfully rebutted the statutory presumption that he was a risk to the community, and ordered Defendant Detained (Exhibit A).
3. Defendant remains detained.
 - a. It is impossible for him to keep regular contact with his counsel because of limitations on his ability to call at times when counsel is available to speak with him.

b. It is impossible for him to effectively assist counsel in the preparation of his defense because all of his contacts with his counsel, both telephonic and personal are electronically monitored by the government.

4. 18 USC §3145 vests jurisdiction in this court to “promptly” review a magistrate’s detention order.

5. The magistrate’s bond order should be set aside because the detention hearing was conducted in a fashion that deprived Defendant of his constitutional and statutory rights of confrontation.

6. The magistrate’s order should be reversed for the following additional reasons:

a. Mr. Stone is a United States citizen who has his sole place of residence in the Eastern District of Michigan.

b. Mr. Stone’s family contacts are all within the Eastern District of Michigan.

c. Mr. Stone has no financial holdings anywhere but in the Eastern District of Michigan. He has no access to any funds to flee the jurisdiction of this Court.

d. Mr. Stone has no prior contact with the criminal justice system.

e. Mr. Stone has no passport with which to leave the country. The Indictment does not accuse Mr. Stone of personally engaging in any acts of violence.

f. The government’s charges are based upon the claim that Mr. Stone encouraged others to engage in violent conduct. Defendant vigorously denies those charges.

g. The charges in the indictment arise out of presumptively, Constitutionally protected speech, and political and religious activity engaged in by Mr. Stone.

h. Global positioning equipment is available that could monitor Defendant’s location twenty four (24) hours a day and immediately report if Defendant were to leave prescribed territorial locations.

7. Under these circumstances, Defendant has established by clear and convincing proof that conditions can be set that would assure that Mr. Stone poses neither a risk of flight nor a danger to the community.

WHEREFORE, Defendant asks this Honorable Court to conduct a hearing and to revoke the magistrate's order of detention and release Mr. Stone pending trial on the indictment, either on his own recognizance, or under whatever conditions of release the Court deems necessary.

Respectfully Submitted,

s/William W. Swor

WILLIAM W. SWOR

Attorney for David Brian Stone

645 Griswold Street, Suite 3060

Detroit, Michigan 48226

(313) 967-0200

Email: wwswor@wwnet.net

P21215

Dated: April 9, 2010

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 10-20123

Hon. Victoria A. Roberts

v.

(D-1) DAVID BRIAN STONE,
a.k.a. "RD", a.k.a. "Joe Stonewall,"
a.k.a. "Captain Hutaree,"

Defendant

_____ /

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2010, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: AUSA Joseph L. Falvey, Jr. and AUSA Ronald Waterstreet .

s/William W. Swor
645 Griswold, Suite 3060
Detroit, Michigan 48226
(313) 967-0200
E-mail: wwswor@wwnet.net
P21215